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BOOK REVIEWS AND NOTICES

Regulation of Railways. Including a Discussion of Government Ownership and Government Control. By S. O. DUNN. New York: D. Appleton & Co., 1918. Pp. x+354. \$1.75.

The appearance of *Regulation of Railways* by the editor of the *Railway Age* is timely, first, because it is not probable that the railroad eggs will be completely unscrambled after the war; second, because there is a danger that past unsatisfactory experience with government regulation, and what is hoped will be successful management under government operation, will appear to many to be sufficient reasons why we should have government ownership of railroads. Therefore a careful study of the problem sometime before we are ready to act is highly desirable. Such a study has been made by Dunn in his third important work on transportation.

In this valuable contribution to the subject of transportation the author has presented what is on the whole a well-balanced and clear-cut discussion of problems which will present themselves for solution with the return of peace. To the student familiar with transportation there will appear some repetition throughout the chapters, due possibly to the fact that much of the material brought together in this volume had been published previously in magazine articles. (In one case, page 245, there is reference to material in an earlier chapter, that does not appear until the following chapter.) But from the standpoint of the general reader for whom this book is probably intended the repetition in it is a distinct merit.

In his first book, *The American Transportation Question*, published about six years ago, the author did not discuss government ownership at all. His second volume, published in 1914, was devoted entirely to that subject. The present volume is characterized not so much by new material as by an up-to-date interpretation of much that the author has said before in his earlier volumes and more recently in periodicals. In chapters ii to x inclusive of the present volume he discusses the following topics: the trouble with railway regulation, the functions of government in relation to railways, commission vs. legislative regulation, federal vs. state regulation, regulation of rates, valuation in relation to regulation of

rates and securities, regulation of securities, regulation of railway operation, and the peaceable settlement of labor disputes. In these chapters the author has attempted to show the strength and weakness of regulation as it existed before the railroads were taken over by the government. In examining this subject historically he finds we had the first effective regulation beginning with the Hepburn Act in 1906. He believes that this and succeeding legislation have done much good; that among other things it has eliminated the domination of the railways over politics, abolished free passes and rebating, greatly reduced unfair discriminations, and made financial manipulation more difficult through better accounting of the railways to the government. But it is shown that not all the effects of this regulation have been good: that while the Interstate Commerce Commission has power to suspend rates and prevent advances it has no power to advance rates or prevent reductions; that this results in the granting of many unduly low and unfairly discriminating rates; that with the Commission having power to make maximum rates, both section 5 of the Act to Regulate Commerce and the Sherman law have done more harm than good, since through combinations railroads could not have made rates high but could have effected many economies in operation and rendered more efficient service.

The author contends that regulation of railway rates is still based upon the theory which came to the fore in the period from 1893 to 1906. He points out that before the panic of 1893 there was rapid expansion of railway facilities, really much ahead of needs; that with the boom in traffic about 1898 there was no need for large investments to handle the business; that about this time the tendency of railway rates was upward; that between 1898 and 1906 extensive labor-saving devices were introduced, advances in wages were small and taxing authorities had only begun to discover the possibilities of railroad properties; that as a result of these conditions the seven or eight years preceding 1906 showed "strikingly increased returns," when "large and juicy melons were cut" (p. 28); that the events of this period gave rise to the belief that there are practically no limits to the law of increasing returns, and the public, anxious to share in the prosperity of the railroads, began a policy in the Hepburn law, and in various state rate laws, which reduced rates and imposed heavy financial burdens upon the carriers, thus restricting railway profits to such an extent that the railways have had insufficient funds with which to expand railway mileage and furnish adequate railway service.

Granting that the inadequate service of the railways in recent years has been due in part to a rate regulation which has assumed no limits to the law of increasing returns, it may be pointed out that although limitation of rates did not begin until 1906 with the passage of the Hepburn law, in that very year we suffered much from an inadequacy of transportation facilities. The evidence taken by the Interstate Commerce Commission at important centers throughout the country in 1906 and that given before certain congressional committees at that time indicates that our transportation system was not equal to its tasks before the government had inaugurated its policy of rate restriction. The trouble at that time was more than a mere shortage of cars, and, it may be added, this was a time of peace. Those who believe that rate restriction has not been the sole cause of inadequate railway facilities since 1906 may wish to know why the railroads should have been unequal to demands made upon them at the end of a period of seven or eight years of strikingly increasing returns when they were able to cut many juicy melons. James J. Hill told the Interstate Commerce Commission in the Minneapolis hearings of 1906 that the growth of commerce in the country was against a stone wall so high that it was not possible to see the top of it. He pointed out that from 1895 to 1905 "the tons moved increased 110 per cent," while the increase in mileage was but 20 per cent, and he maintained that it was as impossible to bore an inch hole with a half-inch auger as it was to drive the business then being offered to the railroads through the facilities which they had.¹ Howard Elliott told the Commission in the same hearings that water would back up and run very slowly through a hose if there was not room for it to go out at the end; that, he maintained, was largely the condition of traffic on the Northern Pacific at that time.²

While it is true that conditions in 1906 were unusual with regard to the increase in traffic and the scarcity of both labor and materials, it may be true that some of the difficulty was due to the fact that part of what was paid out in dividends by the railroads during the period ending in 1906 should have gone into railway facilities. Daniel Williard, who at that time was vice-president of the Burlington system, frankly stated to the Interstate Commerce Commission in the Chicago hearings of 1906 that he had not properly anticipated the increase in business which his road had been called upon to move.³ Furthermore, it is conceivable that our

¹ Senate Document No. 333, Fifty-ninth Congress, Second Session, pp. 295, 296, 298.

² *Ibid.*, p. 282.

³ *Ibid.*, pp. 396-97.

transportation difficulties in 1906 and to some extent more recently have been due to a lack of the proper co-ordination and use of railway facilities as well as to their supply. Many students of the transportation question believe with the author that it would be desirable to repeal the anti-pooling section of the Act to Regulate Commerce and the Sherman law. But the question might be raised whether he has claimed too much for what the repeal of these laws would accomplish. With reference to President Wilson's statement that the railroad managers of the country had done all that it was possible for them to do under the circumstances, the author observes that all the "circumstances" referred to by the President "were due to government regulation of one kind or another" (p. 13). Again, in discussing the taking over of the railroads by the government, he contends (p. 197) that it "was made necessary—if it was necessary—by restrictive regulatory laws which government control could set aside." It is conceivable that the inability of railroad managers to operate their private systems to produce the maximum transportation efficiency has not been due entirely to the antipooling legislation and the Sherman law. There are very many agreements which railroads might have made with each other, e.g., trackage rights and more common use of terminal and other facilities, that are in no sense prohibited by the legislation referred to. As Professor Van Metre has recently observed, railroad men do not necessarily deserve censure because they have not come forward and offered to share strategic facilities with their competitors, but it ought not be urged that they have not done so merely because of restrictive legislation. Railroad men like other business men are ready to compromise, and enter into agreements when there is likely to be more gain by doing so than by not doing so, but when they enjoy strategic or monopoly advantages which cannot be taken away from them by the policies followed by other carriers they do not feel the need of such co-operation. While it is true, as the author emphasizes, that railroad regulation ought never to attempt to supplant railway management, it may be desirable to require railroads to do what they will not do voluntarily even if the antipooling legislation and the Sherman law are repealed. The decision of the Supreme Court in the St. Louis terminal case in 1912 would indicate a beginning in the right direction.

Proper regulation of railway operation, which is discussed in chapter ix, involves at least a threefold relationship, the relation between the railroads and regulating authorities, the relation between the railroads and the shippers, and the relation of the railroads to each other. The

first of these is much emphasized by the author. He points out that regulation by the states is responsible for inferior and inadequate service and much unfair discrimination through legislation and commission rulings that conflict with each other and with the federal government. The author has not exaggerated this situation. Indeed, he has not given the "shipper legislatures" and shippers generally their just dues, so far as their responsibility for the inadequacy and inefficiency of transportation facilities are concerned. The United States Department of Agriculture has considered it necessary from time to time to publish literature informing agricultural interests how they have contributed to the inefficiency and insufficiency of transportation facilities. But in view of evidence which was taken by the Interstate Commerce Commission in 1906 and again in 1916 in the Louisville hearings, it would appear that it will be necessary to give more attention to the relation of the railroads to each other. For example, the public has a vital interest in the violation of car-service rules and the resulting unequal distribution of railway equipment among railway systems, among different classes of shippers, and among different sections of the country. The unequal geographical distribution of equipment has played no small part in bringing about much of the state legislation of which the author very properly complains.

In his earlier volumes, in his able editorials, and in the present study, the author has consistently contended for a program of regulation which will reward and hence encourage efficiency in railway management. It is because he fears that efficiency will not be encouraged that he is opposed to government ownership; on the same theory he has opposed, in recent editorials, an extreme degree of standardization of railway equipment by the United States Railroad Administration. In his discussion of valuation (chap. vii) as related to rates, however, it is claimed that the best basis for rate regulation is that of present or reproduction cost. Despite many court decisions on valuation it may be said that while this theory is desirable from the standpoint of private-property rights in public utilities, it is not clear that it will mean, especially in the future, the close connection between efficient management and its remuneration, which the author considers vital. A valuation of the property of a public utility when prices are low might mean a reduction of rates without any deterioration in service or any less efficiency in management. Or a valuation during high prices might mean an advance in rates not accompanied by an improvement in service or greater efficiency in management. On this theory a gas plant

located in a city before it had paved streets might ask for an increase in rates when the streets were paved merely because it would cost more to reproduce the plant, on account of the expense which would be involved in tearing up the pavement and relaying it to put in the gas pipes. When the question came in this bald form to the Supreme Court in the *Des Moines Gas* case (June, 1915, 238 U.S. 153), it was held that such an addition to valuation is not warranted. The very fact that the different theories of valuation persist indicates how difficult it is to find any one theory that is satisfactory. But it would appear that some plan must be worked out which in time will separate transportation efficiency and reward for good service from fortuitous changes. It is probable that in time even the courts will indorse such a theory of valuation. The time may come when the government will need to take over the rights of way and terminal lands of carriers in order to separate increment from investment and thus make a closer connection between transportation efficiency and its reward. If this is done there would be less difficulty in applying the proposed theory of valuation to railroads.

Chapters xi to xv inclusive treat of government ownership, and the results of this policy in Canada are very carefully examined. The author concludes that democratic countries are more likely to succeed with private ownership and government regulation than with government ownership. Evidence is presented to show that strikes of railway laborers could occur under government ownership as well as under private control, unless legislation is passed to prevent them, and this it is maintained can be done under private ownership as well as under government ownership. The proposed plan of strike prevention is similar to the Canadian law and would prevent strikes only until there could be an investigation of the issues and the public informed concerning them.

The author's constructive proposals are sane and progressive. In the closing chapter a plan is presented which is intended to preserve the merits of private ownership and government regulation and avoid the disadvantages of government ownership; in the proposals for regional federal commissions to supplant state commissions, for federal incorporation of railroads and federal supervision of security issues, the author is supported by a large and increasing number of students of transportation.

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